IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8012 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT WATER SUPPLY AND SEWERAGE BOARD & 1 - Petitioner(s)

Versus

PANUBHA BHAVUBHA - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner(s) : 1 - 2.
MRS DT SHAH for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 27/10/2005

CAV JUDGMENT

1.By filing this petition, the petitioner has challenged the judgment and award dated 10.01.2000 passed by the

Presiding Officer, Labour Court, Surendranagar in Reference (LCS) No.1152 of 1989, by which the Labour Court has directed the petitioner to reinstate the respondent – workman on his original post and has also directed the petitioner to pay 20% back wages.

2. It is the case of the petitioner that the respondent – workman was to be provided work depending upon the availability of the work as the respondent was to work on the scarcity relief project and the undertaking to that effect has also been given by the respondent on 07.10.1987. It is also the case of the petitioner that on completion of scarcity relief project, the respondent was discontinued from service with effect from 28.06.1988 along with similarly situated other workers.

3. Ultimately, the respondent – workman raised the industrial dispute which came to be referred to the Labour Court, Surendranagar and numbered as Reference (LCS) No. 1152 of 1989. The Labour Court ultimately came to the conclusion that the action of the petitioner is illegal and directed the petitioner to reinstate the respondent – workman to his original post with 20% back wages. Being aggrieved by the said judgment and award dated 10.01.2000, the petitioner has

preferred the present petition under Article 226 and 227 of the Constitution of India.

4. Relying upon the judgment of the Full Bench of this Court in the case of H.K.Makwana V/s State of Gujarat and others, reported in 1994(2) GLR 1002, Mr.Munshaw has submitted that when a State Government during famine and drought, undertakes relief works intended to provide the much needed relief to scarcity affected people in the affected areas, it is merely trying to fulfill its obligation towards its people who are hit by nature's wrath. It is the further contention of Mr.Munshaw that the idea behind the said scarcity project is to provide relief to the scarcity affected people who have been deprived of livelihood.

5. On the other-hand, Ms.D.T.Shah has relied upon the judgment of this Court reported in 2005(2) G.L.H., page 62 and has submitted that the Labour Court has not committed any error while passing the impugned judgment and award and this Court cannot reappreciate the evidence in a petition under Article 227 of the Constitution of India.

6. I have given my thoughtful consideration to the submissions made by the learned advocates appearing for the respective parties and have perused the material

placed on record.

7. It can be noticed that the Labour Court has, come to the conclusion that the petitioner has not produced any document before the Labour Court showing that the respondent – workman was employed for a limited period of work or for a particular project work. The Labour Court has also come to the conclusion that even in the application submitted by the petitioner before the Labour Court, nowhere it is mentioned that the respondent – workman was engaged or employed for a scarcity work and when he was relieved from the work, the said project was completed and the petitioner has failed to prove the said aspect. The Labour Court has come to the conclusion that the petitioner has violated the provisions of Section 25-F, 25-G, 25-H and 25-M of the Industrial Disputes Act, 1947 (“the Act” for short).

8. Therefore, it can be seen that when the petitioner has failed to produce any documentary evidence before the Labour Court, Surendranagar showing that the respondent – workman was employed or engaged for a particular project work and when the Labour Court, after appreciating the evidence on record, has come to the conclusion that the petitioner has committed breach of

Sections 25-F, 25-G, 25-H and 25-M of the Act, this Court cannot reappreciate the evidence on record in a petition filed under Article 227 of the Constitution of India.

9. In this view of the matter, I am of the considered opinion that the termination of respondent – workman cannot be upheld and has to be set aside. It is also seen from the record that the services of the respondent – workman were terminated way back in 1988 and till date 17 years have elapsed. Under the circumstances, I am not inclined to direct reinstatement of the respondent – workman but considering the facts and circumstances of the case, the petitioner is directed to pay consolidated sum of Rs.40,000/- (Rupees forty thousand only) to the respondent – workman in lieu of reinstatement as well as 20% back wages. It is clarified that this amount is paid by way of full and final settlement of all the claims of the respondent – workman. The said amount shall be paid within two months from today.

10. Under the circumstances, the impugned judgment and order dated 10.01.2000 is quashed and set aside. The petition stands disposed of accordingly.

11.Rule discharged. Interim relief, if any, granted earlier stands vacated forthwith.

(SHARAD D DAVE, J)

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